

§ 1430.207

7 CFR Ch. XIV (1-1-04 Edition)

(c) With respect to the 2002 Fiscal Year, the dairy operation may elect to forgo their transition payment and choose to begin receiving payments in September, 2002 in accordance with § 1430.205.

(d) Notwithstanding any other provisions in this subpart, dairy operations that go out of business after December 1, 2001, may enter into a MILC with CCC for a transition payment on the quantity of eligible production marketed by the dairy operation during the transition period while the dairy operation was in business.

§ 1430.207 Dairy operation payment quantity.

(a) The applicant's payment quantity of milk will be determined by CCC, based on the quantity of milk that was produced and commercially marketed by each dairy operation per fiscal year.

(b) The maximum quantity of eligible production for which dairy operations are eligible for payment per any fiscal year, including any in the transition year, under this subpart shall be 2.4 million pounds (24,000 cwt.) per separate and distinct operation. In accordance with these regulations, the Deputy Administrator shall determine what is a separate and distinct operation and that decision shall be final.

§ 1430.208 Payment rate and dairy operation payment.

(a) Payments under this subpart may be made to dairy operations when the Boston Class I milk price under the applicable Federal milk marketing order is below \$16.94 per cwt. No payments will be made to dairy operations for marketings during the months that the Boston Class I milk price under the applicable Federal milk marketing order exceeds \$16.94.

(b) A per-hundredweight payment rate will be determined for the applicable month by:

(1) Subtracting from \$16.94 the Class I milk price per cwt in Boston; and

(2) Multiplying the difference, if positive, by 45 percent.

(c) Each eligible dairy operation payment will be calculated, as determined by the Secretary, by:

(1) Converting whole pounds of milk to hundredweight; and

(2) Multiplying the payment rate determined in paragraph (b) of this section by the quantity of eligible production marketed by the operation during the applicable month as determined according to § 1430.205 and other provisions of these regulations.

(d) Payments under this subpart may be made to a dairy operation only up to the first 2.4 million pounds of eligible milk production per applicable fiscal year, including any year in the transition period.

(e) Dairy operations receiving benefits under this subpart, will receive payments on a monthly basis according to the MILC, to the extent practicable, not later than 60 days after the production evidence and all supporting documents for the applicable month are received by CCC. Payments issued by CCC later than 60 days after all production evidence and supporting documentation are received by CCC will be subject to prompt payment interest as allowed by law.

§ 1430.209 Proof of marketings.

(a) A dairy operation entering into an MILC must, based on instructions issued by the Deputy Administrator, provide adequate proof of the dairy operation's eligible production during the months of each fiscal year designated in the MILC. The dairy operation must also provide proof that the eligible production was commercially marketed during the months beginning December 1, 2001, and ending September 30, 2005. Evidence of milk production claimed for payment shall be provided to CCC with supporting documentation under paragraph (b) of this section. All information provided is subject to verification, spot check, and audit by FSA. Further verification information may be obtained from the dairy operation's milk handler or marketing cooperative if deemed necessary by CCC to verify provided information. Refusal to allow FSA or any other agency of the Department of Agriculture to verify any information provided will result in a determination of ineligibility for benefits under this subpart.

(b) Eligible dairy operations marketing milk during the period specified in the MILC shall provide any available supporting documents from all

producers in the dairy operation to assist CCC in verifying that the dairy operation produced and marketed milk commercially from the designated starting month and thereafter. Examples of supporting documentation include, but are not limited to: milk marketing payment stubs, tank records, milk handler records, daily milk marketings, copies of any payments received as compensation from other sources, or any other documents available to confirm the production and production history of the dairy operation. Producers may also be required to allow CCC to examine the herd of cattle as production evidence. If supporting documentation requested is not presented to CCC or FSA, the request for MILC benefits will be disapproved.

§ 1430.210 MILC agents.

(a) MILC benefits may be disbursed by a dairy marketing cooperative that serves special groups or communities, such as an Amish or Mennonite community. Producers in such groups in a dairy operation may authorize an agent of a dairy cooperative or milk handler affiliated with such cooperative to obtain and disburse MILC benefits to the dairy operation.

(b) The authorized MILC agent must on behalf of the dairy operation do the following:

(1) Obtain an acceptable power of attorney or acceptable equivalent for the producers of the dairy operation that authorizes the agent to enter into an MILC contract;

(2) Enter into a written agreement with CCC for approval to act as a MILC agent on a form prescribed by CCC;

(3) Provide the dairy operation's monthly production evidence to the appropriate FSA office;

(4) Disburse payment to the dairy operation in the producer's monthly milk check or in an otherwise approved manner.

§ 1430.211 Duration of contracts.

(a) Except as provided in §§ 1430.205 and 1430.206, or elsewhere in this subpart, contracts under this subpart entered into by producers in a dairy operation shall cover eligible production marketed by the producers in the dairy

operation during the period beginning with the first day of the month the producers in the dairy operation enter into contract and ending on September 30, 2005.

(b) If a dairy goes out of business during the contract period, the MILC will be terminated immediately, except as applicable to earned payments.

§ 1430.212 Contract modifications.

(a) Producers in a dairy operation must notify FSA immediately of any changes that may affect their MILC. Changes include, but are not limited to changes to the starting month to receive payment for the next fiscal year, death of producer on the contract, new member joining the operation, member exiting the operation, transfer of shares by sale or other transfer action, or farm reconstitutions undertaken in accordance with § 1430.213.

(b) CCC may modify an MILC if such modifications are desirable to carry out purposes of the program or to facilitate the program's administration.

§ 1430.213 Reconstitutions.

(a) A dairy operation receiving MILC benefits may reorganize or restructure such that the constitution or makeup of their operation is reconstituted in another organizational framework. However, any operation that changes after December 1, 2001, is subject to a review by FSA to determine if the operation was reorganized for the sole purpose of receiving multiple payments.

(b) A dairy operation that FSA determines has reorganized solely to receive additional MILC payments will be in violation of its contract and dealt in accordance with § 1430.214.

(c) If during the contract period a change in the dairy operation occurs, the modification to the MILC will not take effect until the first day of the fiscal year following the month FSA received notification of the changes. Changes include but are not limited to any producer affiliated with a dairy operation that has an approved MILC with CCC forming a new dairy operation that is not formed solely to receive additional MILC payments.